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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

THEODORE DAVIS,

Plaintiff,

v.

ARMSTRONG RELOCATION, LLN,  
EDNA DUMAS, CITY OF  
MONTGOMERY, OFFICER S. WATTS,  
Unknown police officers A, B, and C, and  
Fictitious Parties D, E, and F,

Defendants.

Case No. 2:05cv632-T

NOTICE OF REMOVAL OF CIVIL ACTION

To the Honorable Judges of the United States District Court for the Middle District of Alabama, Northern Division:

COMES NOW Defendant, City of Montgomery, and pursuant to 28 U.S.C. §1441(a) and §1441(c) hereby gives notice of the removal of the above-captioned civil action styled Theodore Davis v. Armstrong Relocation, Lln, Edna Dumas, City of Montgomery, et.al., Civil Action No.: CV-04-370, from the Circuit Court from Montgomery County, Alabama, where it is now pending, to the United States District Court for the Middle District of Alabama, Northern Division. Defendant also claims jurisdiction pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367.

As grounds for this removal, Defendant shows unto the Court and alleges as follows:

1. Defendant City of Montgomery is a municipal corporation in Montgomery County, Alabama.
2. The Plaintiff, Theodore Davis, is over the age of majority and a resident citizen of the State of Alabama.

3. This action styled Theodore Davis v. Armstrong Relocation, Lln, Edna Dumas, City of Montgomery, et.al., was filed in the Circuit Court of Montgomery County, Alabama as Civil Action No.: CV-04-370.

4. This action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. §1331 and supplemental jurisdiction pursuant to 28 U.S.C. §1367, and may be removed by Defendant pursuant to 28 U.S.C. §1441(a) and §1441(c). Defendant removes this action pursuant to 28 U.S.C. §1441(a) and §1441(c).

5. In the Complaint originally filed in the Circuit Court of Montgomery County, Alabama on February 10, 2004, and to which the City of Montgomery was properly added by amendment on June 27, 2005, which amended Complaint has yet to be properly served upon the defendant City of Montgomery, but which service the City of Montgomery hereby waives in accordance with Rule 4(d) Fed.R.Civ.P., the plaintiff alleged civil rights violations under 42 U.S.C. §1983 and/or §1985 (Count Eight); that he was denied his due process rights in his property, and that Defendants conspired to deprive Plaintiff of said rights, all under color of state law. Plaintiff further claimed attorney's fees according to 42 U.S.C. §1988.

6. This notice of removal is timely filed with this Court within the thirty (30) day limitations set forth in 28 U.S.C. §1446(b). This action became removable on June 27, 2005, the date the Order was signed by the Honorable Eugene W. Reese, Circuit Judge for Montgomery County Circuit Court, granting Plaintiff's motion to amend his complaint naming the City of Montgomery as an additional Defendant. This Court has supplemental jurisdiction over all other claims of the Plaintiff pursuant to 28 U.S.C. §1367.

7. This Notice of Removal is filed in this district and division pursuant to 28 U.S.C. §1446(a) and 28 U.S.C. §1443 as the court for the United States for the district and division within which such action is pending. Venue is proper pursuant to 28 U.S.C. §1391(b).

8. A copy of the motion to amend the complaint (Exhibit A), the amended complaint

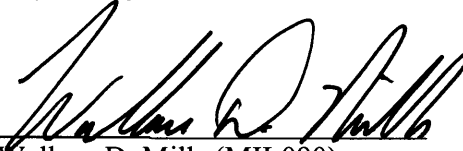
(Exhibit B) and Judge Reese's Order of June 27, 2005 (Exhibit C) contained in the file of the Circuit Court of Montgomery County, Alabama, in said action are attached hereto and made a part hereof in accordance with 28 U.S.C. §1446(a).

9. In accordance with 28 U.S.C. §1446(d), a true and correct copy of this notice of removal is being filed with the Clerk of the Circuit Court of Montgomery County, Alabama, and written notice thereof has been given to all adverse parties. A copy of the notice of filing of notice of removal is attached hereto as Exhibit D.

10. By filing this notice of removal, this Defendant does not waive any defense that may be available to the Defendant.

**WHEREFORE**, Defendant files this notice of removal so as to effect the removal of this action from the Circuit Court of Montgomery County, Alabama, to this Court. Defendant prays this Honorable Court will make such other orders as may be appropriate to effect the preparation and filing of a true record in this cause so that all proceedings that may have been had in said Circuit Court are removed to this Court. Defendant further prays that the removal of this cause to this Court should be effected and that no further or other proceedings shall be had with respect to this cause in the Circuit Court of Montgomery County, Alabama.

Respectfully submitted this the 6<sup>th</sup> day of July, 2005.

  
Wallace D. Mills (MIL090)  
Assistant City Attorney

**OF COUNSEL:**  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following by placing a copy thereof in the United States Mail, postage prepaid and properly addressed as follows on this the 6<sup>th</sup> day of July 2005:

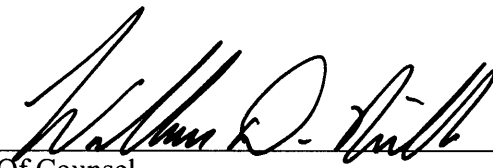
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Of Counsel